

ZONING BOARD OF REVIEW MINUTES

November 5, 2008
7:30 p.m.

The following petitions were received and were heard by the Tiverton Zoning Board of Review on Wednesday, November 5, 2008 at 7:30 p.m. at the Tiverton Town Hall, 343 Highland Road.

1. A petition has been filed by Charles Temple of 491 Stafford Road, Tiverton, RI requesting an extension of time on a variance or a determination that he has exercised the permission granted to him on February 2, 2007 regarding property located at 491 Stafford Road, Tiverton, RI being Map 3-12 Block 113 Card 39 on Tiverton Tax Assessor's maps and in a R60 zoning district.

DECISION: Mr. Leary appeared on behalf of the petitioner and stated as follows: This petition was granted on February 7, 2007. Mr. Temple had already received an advisory approval from the planning board with regard to the water shed protection overlay district. He had to get his ISDS. He finally got the approval for his ISDS on February 25, 2008, which by this time the zoning relief had expired. The Board went into Executive Session to discuss the matter. Ms. Gescheidt made a motion to grant an extension. Mr. Mello seconded. The Vote was unanimous. Voting were David Collins, Ms. Krumholz, Ms. Gescheidt, Mr. Taylor & Mr. Mello.

2. A petition has been filed by Larry Nogueira of New Bedford, MA requesting a variance to Article V Section 1, Article VII Section 4 and Article XVII of the Tiverton Zoning Ordinance in order to construct a single family dwelling at 0 Three Rod Way, Tiverton, RI being Map 1-3 Block 185 Card 20 on Tiverton Tax Assessor's maps closer to the front, rear and side yard setbacks and with less than required lot area located in a R80 zoning district.

DECISION: Mr. Leary appeared on behalf of the petitioner. The petitioner is looking to build 8.2 feet from the front line setback and is requesting a variance for 41.8 feet. John Braga testified that the ISDS has been approved and there is only one place that it could be put, due to the environmental constraints of the lot. Multiple neighbors appeared and voiced their concerns regarding the size of the lot and the drainage and water levels in that area.

The Board went into Executive Session to discuss the matter. Ms. Gescheidt made a motion to deny this petition stating that the relief is not in the public interest and the general character of the area would be affected by granting this. Mr. Mello seconded. The Vote was unanimous. Voting were David Collins, Ms. Krumholz, Ms. Gescheidt, Mr. Taylor & Mr. Mello.

3. A petition has been filed by the Tiverton Yacht Club, 58 Riverside Drive requesting a variance to Article V, Section 1 of the Tiverton Zoning Ordinance in order to permit existing lockers to remain located at 0 Riverside Drive, Tiverton, RI being Map 6-5, Block 73, Card 30 on Tiverton Tax Assessor's maps closer to the side yard setback than currently allowed in a waterfront zoning district.

DECISION: Mr. Tremblay requested a two month continuance on this matter. Ms. Krumholz made a motion to continue. Ms. Gescheidt seconded. The Vote was unanimous. Voting were David Collins, Ms. Krumholz, Ms. Gescheidt, Mr. Taylor & Mr. Mello.

4. A petition has been filed by George T. Medeiros of 1031 Stafford Road, Tiverton, RI requesting a special use permit to Article XII of the Tiverton Zoning Ordinance in order to replace the existing sign with an internally illuminated sign and a small electronic lighted changeable message sign at 1031 Stafford Road, Tiverton, RI being Map 4-10 Block 99 Card 93F on Tiverton Tax Assessor's maps and located in a R60 zoning district.

DECISION: This petition was continued from last month. The Board had requested the petitioner to file some additional material regarding the illuminated sign.

Mr. Tremblay appeared on behalf of the petitioner and they brought with them some specs on the sign for the board to consider. Multiple neighbors spoke about their opposition to this sign.

The Board went into Executive Session to discuss the matter. Ms. Krumholz made a motion to deny this petition due to the fact that it doesn't meet the criteria for special use permits, the public convenience and welfare would not be served. In fact, it might be detrimental to the public health because of the distraction of the sign. It's not compatible with the neighborhood. It might possibly create a nuisance and hinder vehicular traffic and it's not compatible with the Comprehensive Plan. Ms. Gescheidt seconded. The Vote was 4-1. Voting in favor were: David Collins, Ms. Krumholz, Ms. Gescheidt and Mr. Taylor. Opposed was Mr. Mello.

5. A petition has been filed by Constance Lima, President of the Tiverton Land Trust requesting a special use permit to Article IV Section 6.c.1. and/or Article IV Section 14 of the Tiverton Zoning Ordinance in order to construct an building for educational purposes at 3228 Main Road, Tiverton, RI being Maps 2-5 & 2-6 Block 119 Card 2 on Tiverton Tax Assessor's maps and located in a Open Space zoning district.

DECISION: Stetson Eddy appeared on behalf of the petitioner. Terri Holland, real estate expert testified that the construction of this building will not alter or affect this land nor any neighboring properties. She stated that where it is currently planned, there is already a water hook up there and would be the best place for it. Ms. Holland's Resume was marked as Exhibit A.

Jonathan Knowles, Professor of Architecture for the Rhode Island School of Design appeared before the board. He explained in detail how he and his students have designed an energy efficient building which will suit the environment and blend into the environment within a few years. Mr. Knowles testified that this project is going to be funded by grants which have already been submitted to the state. Mr. Knowles' Resume was marked as Exhibit B.

Constance Lima testified as to the use of building. She stated that it will be used for educational purposes and they intend to hold classes and informational meetings there. Said building can accommodate approximately 30 people. Multiple neighbors appeared before the board opposing this proposal.

Attorney Stetson made closing arguments. The Board went into Executive Session and discussed the matter. Mr. Taylor made a motion to continue this petition to the December 3rd meeting and referred it to the planning board for a change of use. Ms. Krumholz seconded. The Vote was unanimous. Voting were David Collins, Ms. Krumholz, Ms. Gescheidt, Mr. Taylor & Mr. Mello.

6. A petition has been filed by Kenneth Mollicone of Somerset, MA requesting a variance to Article IX Section 7.c. and Article V Section 1 of the Tiverton Zoning Ordinance in order to reduce the required rear yard setback requirements of lots 2, 3, 10 and 12 from 60' to 35' as per the rural residential subdivision regulations located at the west side of North Brayton Road, Tiverton, RI being Map 2-10 Block 113 Card 87 on Tiverton Tax Assessor's maps in a R60 zoning district.

DECISION: Mr. Dan Aguiar appeared before the board on behalf of the petitioner. He explained that they have filed a master plan regarding the proposed project at this location. He stated that the planning board recommended that they change the lot lines to eliminate the open space strip around the perimeter of the property to actually inhibit people walking from North Brayton Road in-between the properties to get to the open space parcel to the west.

In getting rid of that buffer strip that surrounded the property that then triggered the proposed 60 foot setback to an abutting conventional subdivision. So if the lot did not abut one of the other exterior abutting lots they would be held to a 35 foot rear yard setback. So by getting rid of that open space strip again going out to those rear property lines the rear setback would now be 60. The abutting properties were developed under an R30 zone and under the R30 zone they were 30,000 square foot lots with 30 foot rear yards. So with those two pieces of information discussed with the planning board, it was advised that they come before the zoning board of appeals to ask for these four variances for the four lots to reduce that rear yard setback to 35. Multiple neighbors appeared to oppose this petition.

The Board went into Executive Session to discuss this matter. Mr. Mello made a motion to approve the requested variance and send it back to the planning board for further planning. Ms. Gescheidt seconded. The Vote was unanimous. Voting were David Collins, Ms. Krumholz, Ms. Gescheidt, Mr. Taylor & Mr. Mello.

7. A petition has been filed by Timothy J. Froggatt of 352 Winnisimet Drive, Tiverton, RI requesting a variance to Article V Section 1 of the Tiverton Zoning Ordinance in order to construct a garage with storage space at 352 Winnisimet Drive, Tiverton, RI being Map 1-7 Block 179 Card 73 on Tiverton Tax Assessor's Maps closer to the rear and side yard setbacks than currently allowed in a R80 zoning district.

DECISION: This petition was continued until next month. The Board did not have time to hear this petition.

8. A petition has been filed by Dominick Zangari, Jr. of Tiverton, RI requesting a variance to Article IV Section 14A and Article 2 Section 3 of the Tiverton Zoning Ordinance in order to raze the existing dwelling and leave the existing garage at 877 Seapowet Avenue, Tiverton, RI being Map 1-5 Block 121 Card 4C on Tiverton Tax Assessor's Maps whereby an accessory structure is not allowed without a main use in a R80 zoning district.

DECISION: This petition was continued until next month. The Board did not have time to hear this petition.

9. A petition has been filed by Luis M. Pacheco, Vice President All Fresh Donuts d/b/a Sip 'n Dip Donuts requesting a special use permit to Article IV Section 8.e. of the Tiverton Zoning Ordinance in order to construct drive through windows at 2 Crandall Road, Tiverton, RI being Map 4-9 Block 144 Card 5 on Tiverton Tax Assessor's maps whereby a special use permit is required for this use in a General Commercial zoning district.

DECISION: This petition was continued until next month. The Board did not have time to hear this petition.

Whereupon the hearing concluded.